

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AT SAN ANTONIO

UNITED STATES OF AMERICA,	Plaintiff,	
vs.		No. SA:13-CR-00633-XR-2
REBECCA ANN VALDES	<u>Defendant.</u>	
UNITED STATES OF AMERICA,	Plaintiff,	
vs.		No. SA:13-CR-00785-OLG-1
RAUL GONZALEZ, JR.,	<u>Defendant.</u>	
UNITED STATES OF AMERICA,	Plaintiff,	
vs.		No. SA:14-CR-00563-XR-1
HERIBERTO EDDIE FUENTES, JR.,	<u>Defendant.</u>	
UNITED STATES OF AMERICA,	Plaintiff,	
vs.		No. SA:14-CR-00565-DAE-1
JACOB GARCIA,	Defendant.	San Antonio, TX October 7, 2014

TRANSCRIPT OF RE-ARRAIGNMENT & PLEA HEARING PROCEEDINGS
BEFORE THE HONORABLE PAMELA MATHY
UNITED STATES MAGISTRATE JUDGE
APPEARANCES

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ALSO PRESENT:

Ms. Sonia Hart, Court-Appointed Interpreter, translating
for Defendant Raul Gonzalez, Jr.

Proceedings recorded by FTR digital audio recording.

1 THE COURT: Okay. We're on the record in four cases.
2 *United States of America vs. Raul Gonzalez, Jr.*, Cause
3 No. SA:13-CR-785, Defendant 1.

4 Announcements, please.

5 MR. LEACHMAN: Russ Leachman for the United States,
6 Your Honor. We're ready.

7 THE COURT: Good afternoon.

8 MS. ORR: Cynthia Orr for Mr. Raul Gonzalez, Jr.
9 He's present in the court in custody. We're ready to proceed.

10 THE COURT: All right. Good afternoon.

11 MS. ORR: Good afternoon.

12 THE COURT: *United States vs. Rebecca Ann Valdes*.
13 This is Cause No. SA:13-CR-633, Defendant No. 2.

14 MR. LEACHMAN: Sam Ponder for the United States.
15 Good morning -- or good afternoon, Your Honor.

16 THE COURT: Thank you, Mr. Ponder.

17 MS. ORR: Good afternoon, Judge. Jorge Aristotelidis
18 for Rebecca Valdes. We're ready for a plea.

19 THE COURT: All right. Thank you, sir. Good
20 afternoon.

21 *United States vs. Heriberto Eddie Fuentes, Jr.*,
22 SA:14-CR-563.

23 MR. LEACHMAN: Sarah Wannarka for the United States.
24 Good afternoon.

25 THE COURT: Good afternoon.

1 MS. ORR: Kurt May, Your Honor, on behalf of
2 Mr. Fuentes. He's present. We're ready to proceed -- proceed
3 at this time.

4 THE COURT: Thank you, sir. Good afternoon.

5 And *United States vs. Jacob Garcia*, SA:14-CR-565.

6 MR. LEACHMAN: Sarah Wannarka for the United States.

7 MS. ORR: Your Honor, Alfredo Villarreal, for
8 Mr. Garcia. Mr. Garcia is present. We're ready to proceed
9 with a plea agreement.

10 THE COURT: All right. Thank you, sir. Good
11 afternoon.

12 Then if I could ask the four of you, please, to raise your
13 right hands so you can be sworn. Thank you very much.

14 (Defendants sworn.)

15 THE COURT: Yes? Yes from everybody? Yes from
16 everybody. Good. Thank you. You can all put your hands down.

17 From time to time today, I'm going to be asking you
18 various questions. And, when I do, I'd appreciate it if you
19 could answer by speaking. I've learned, through the years,
20 that sometimes people are thinking of different things when
21 they nod their heads, and it's actually when I hear your voice
22 that I know that I'm on the same page with you. It's the
23 reason why I mention it to you, why speaking is important to
24 me. I'd appreciate it if you would talk.

25 If, at any time, I ask you something, and you don't

1 understand, or you have a question, or you just want to talk to
2 your lawyer about something that you're thinking, let me know
3 right away. I'll either repeat something, answer your
4 question, or let you talk with your lawyer or hear what it is
5 that you have to say. You just need to let me know right away.

6 Do all of you understand, yes or no?

7 (Several affirmative responses.)

8 THE COURT: Yes? Yes? Yes from everybody. Good.

9 Now, you have all been brought to court here this
10 afternoon for this hearing because you're all having the same
11 type of hearing. The four of you are having hearings that we
12 call plea hearings. So these are hearings where it's my
13 understanding you're planning on entering a -- a plea of guilty
14 to a charge or charges that are pending against you. That's
15 why all four of you are here, to have plea hearings.

16 Do you understand what I've said, yes or no?

17 DEFENDANT GARCIA: Yes, Your Honor.

18 THE COURT: Yes? Yes from everybody. Good.

19 Now, in each of your cases, I -- I have written plea
20 bargain agreements. And do all four of you have copies of your
21 written agreements there with you? Yes?

22 DEFENDANT GARCIA: Yes.

23 THE COURT: Yes. Yes. Yes from everybody. Good.

24 Have you either read your written plea agreement, word for
25 word, or has it been read to you, word for word, before I came

1 into court for this hearing this afternoon, yes --

2 DEFENDANT GARCIA: Yes.

3 THE COURT: -- or no?

4 Yes. Yes? Yes? Yes? Yes from everybody. Good.

5 Do all four of you understand everything that's in your
6 plea agreement, yes or no?

7 DEFENDANT VALDES: Yes, Your Honor.

8 THE COURT: Yes?

9 DEFENDANT GARCIA: Yes.

10 THE COURT: Yes? Mr. Garcia?

11 DEFENDANT GARCIA: Yes.

12 THE COURT: Yes from everybody. Good.

13 Does your written plea agreement correctly state your
14 agreement with the Government in your case, yes or no?

15 DEFENDANT VALDES: Yes, Your Honor.

16 DEFENDANT GARCIA: Yes -- yes, Your Honor.

17 THE COURT: Yes? Yes from everybody. Okay.

18 Then what I know, so far, is that all four of you are
19 planning to plead guilty to offenses that are considered to be
20 felony offenses under federal law. Any person who wants to
21 plead guilty to a felony offense has a right to have this
22 hearing before a district judge. So I'm going to be handling
23 your hearing today for the district judge who is assigned your
24 case, but I'm going to be handling the hearing only if you
25 agree I can do so.

1 If you do agree, the district judge who is assigned to
2 your case still will make the final decision as to whether or
3 not your plea of guilty and plea agreement will be accepted,
4 and the district judge still will sentence you. It's just
5 that, with your agreement, I'll handle this hearing.

6 Do all four of you understand what I've said, yes or no?

7 DEFENDANT GARCIA: Yes.

8 DEFENDANT VALDES: Yes, Your Honor.

9 THE COURT: Yes? Yes from everybody. Good.

10 Do all four of you agree I can handle your plea hearing
11 today, yes or no?

12 (Several affirmative responses.)

13 THE COURT: Yes from everybody. Okay.

14 Then you have each been charged, as we've already
15 reviewed, with felony offenses, and you've been charged with
16 these offenses either in grand jury indictments or in a
17 charging document called an information.

18 Do the four of you understand what I've said so far?

19 DEFENDANT GARCIA: Yes, Your Honor.

20 THE COURT: Yes? Yes from everybody. Good.

21 Now, Ms. Valdes, for you, you are pleading guilty to a
22 charge in a document called a superseding information. It
23 charges you with a felony offense. The felony offense is
24 misprison of a felony, but that itself is a felony offense.
25 And I have your waiver of your grand jury indictment right here

1 that I'm holding up in my hands. And so it's my understanding
2 that you're agreeing to plead guilty to this charge of
3 misprison in a charging document prepared by the
4 U.S. Attorney's Office, and you're not going to require the
5 U.S. Attorney's Office to present the evidence surrounding the
6 charge to the grand jury to see if the grand jury will indict
7 you or not, you're just going to plead to the charge.

8 Is that right?

9 DEFENDANT VALDES: Yes, ma'am.

10 THE COURT: Okay. Do you understand this waiver of
11 your right to have a grand jury presentment?

12 DEFENDANT VALDES: Yes, ma'am.

13 THE COURT: Okay. Any questions about the waiver
14 form?

15 DEFENDANT VALDES: No, ma'am.

16 THE COURT: No. Okay.

17 Then other than Ms. Valdes, who is pleading guilty to a
18 charge in the information as I just reviewed, the others of you
19 are pleading guilty to the charge or charges in grand jury
20 indictments. Now, to all four of you, have each of you either
21 read, word for word, or had read to you, word for word, the
22 charge or charges to which you're pleading guilty before today?

23 DEFENDANT GARCIA: Yes, Your Honor.

24 THE COURT: Yes. Yes. Yes. Yes from everybody.

25 Okay.

1 Do you all understand what it is that you're charged with
2 in your cases, yes or no?

3 DEFENDANT GARCIA: Yes, Your Honor.

4 DEFENDANT FUENTES: Yes.

5 THE COURT: Yes. Yes from everybody. Okay.

6 Mr. Gonzalez, starting with you, sir, your plea agreement
7 indicates that you're going to plead guilty to Count 1 of the
8 indictment, and your plea agreement describes that offense as a
9 conspiracy to possess with intent to distribute 5 kilograms, or
10 more, of cocaine. That's what you're going to plead guilty to.

11 Do you understand what you're charged with in Count 1 of
12 the indictment?

13 DEFENDANT GONZALEZ THROUGH INTERPRETER: Yes.

14 THE COURT: Then, at this time, I ask you how do you
15 wish to plead to the offense charged in Count 1, guilty or not
16 guilty, sir?

17 DEFENDANT GONZALEZ THROUGH INTERPRETER: Guilty.

18 THE COURT: Okay. Any questions about anything so
19 far, Mr. Gonzalez?

20 DEFENDANT GONZALEZ: No.

21 THE COURT: Ms. Valdes, you're charged in this
22 superseding information that we've just been reviewing with an
23 offense of misprison of an felony. You've read it over word
24 for word?

25 DEFENDANT VALDES: Yes, ma'am.

1 THE COURT: And you understand what you're charged
2 with?

3 DEFENDANT VALDES: Yes, ma'am.

4 THE COURT: And, at this time, for the record, I ask
5 you, how do you wish to plead to Count 1 of the superseding
6 information charging you with misprison of a felony offense,
7 guilty or not guilty?

8 DEFENDANT VALDES: Guilty.

9 THE COURT: Any questions about anything so far?

10 DEFENDANT VALDES: No, ma'am.

11 THE COURT: Mr. Fuentes, your plea agreement
12 indicates you're planning to plead guilty to Count 1 of the
13 indictment which charges you with an offense of felon in
14 possession of firearms. Do you understand?

15 DEFENDANT FUENTES: Yes, ma'am.

16 THE COURT: You've read over Count 1 word for word?

17 DEFENDANT FUENTES: Yes, ma'am.

18 THE COURT: You understand what you're charged with?

19 DEFENDANT FUENTES: Yes, ma'am.

20 THE COURT: And, at this time, for the record, how do
21 you wish to plead to Count 1 of the indictment, guilty or not
22 guilty?

23 DEFENDANT FUENTES: Guilty.

24 THE COURT: Okay. Any questions about anything so
25 far, sir?

1 DEFENDANT FUENTES: No, ma'am.

2 THE COURT: All right. Then, Mr. Garcia, I have your
3 plea agreement, and it indicates you're planning to plead
4 guilty to Count 1 and to Count 2 of the indictment. Is -- is
5 that right, sir?

6 DEFENDANT GARCIA: Correct.

7 THE COURT: All right. Count 1 charges the offense
8 of felon in possession of a firearm. In Count 2 it charges an
9 offense of using and carrying firearms during and in relation
10 to a drug trafficking crime.

11 Do you understand what you're charged with in Counts 1 and
12 2?

13 DEFENDANT GARCIA: Yes, Your Honor.

14 THE COURT: You've read over Counts 1 and 2 word for
15 word, sir?

16 DEFENDANT GARCIA: Yes, Your Honor.

17 THE COURT: Then, at this time, for the record, how
18 do you wish to plead to the felon in possession of firearms
19 charge in Count 1, guilty or not guilty?

20 DEFENDANT GARCIA: Guilty, Your Honor.

21 THE COURT: And how do you wish to plead to the
22 924(c) offense, the using and carrying firearms in connection
23 with or in furtherance of a drug trafficking crime?

24 DEFENDANT GARCIA: Guilty, Your Honor.

25 THE COURT: All right. Any questions about anything

1 so far, sir?

2 DEFENDANT GARCIA: No, ma'am.

3 THE COURT: All right.

4 Now, to all four of you, have each of you had enough time
5 to talk with your case -- talk about your cases with your
6 lawyers, yes or no?

7 DEFENDANT GARCIA: Yes, Your Honor.

8 DEFENDANT VALDES: Yes.

9 THE COURT: Yes from everybody.

10 Have each of you had enough time to talk with your lawyers
11 about the offense or offenses to which you are pleading guilty,
12 yes or no?

13 DEFENDANT GARCIA: Yes, Your Honor.

14 THE COURT: Yes? Yes from all.

15 Now, in all of your cases, the offense, or offenses, are
16 divided up in to what the law calls essential elements, and
17 before you could be found guilty of any offense, the Government
18 is required to prove each and every one of the essential
19 elements of the offense beyond a reasonable doubt.

20 Do you understand what I've just said, yes or no?

21 DEFENDANT GARCIA: Yes, Your Honor.

22 THE COURT: Yes? Yes? Yes? Yes from everybody.
23 Good.

24 In your case, do you understand what it is the Government
25 must prove to show that you are guilty of the offense, or

1 offenses, to which you're pleading guilty, yes or no?

2 DEFENDANT GARCIA: Yes, Your Honor.

3 THE COURT: Yes? Yes? Yes? Yes from everybody.

4 Okay. Have you had enough time to discuss that with your
5 lawyers, yes or no?

6 DEFENDANT GARCIA: Yes, Your Honor.

7 DEFENDANT VALDES: Yes.

8 THE COURT: Yes from everybody.

9 Are you satisfied with your lawyer's representation of
10 you?

11 DEFENDANT GARCIA: Yes, Your Honor.

12 THE COURT: Yes?

13 DEFENDANT VALDES: Yes.

14 THE COURT: Yes? Yes from everybody. Good.

15 Now, you have each already told me that you have read the
16 charge, or charges, word for word before this hearing today; is
17 that correct?

18 DEFENDANT GARCIA: Correct.

19 THE COURT: Yes? Yes from everybody. Okay.

20 Then, as stated word for word in your charging document,
21 is that what you did, and is that what you're pleading guilty
22 to in the case, yes or no?

23 DEFENDANT GARCIA: Yes, Your Honor.

24 DEFENDANT VALDES: Yes.

25 THE COURT: Yes? Yes from all. Yes from all. Okay.

1 Now, I'm going to review some rights, and this applies to
2 all four of you the same. You each have a right to be
3 represented by a lawyer at every stage of the proceedings in
4 your cases. You have a right to a jury trial on the charges.
5 You have a right to confront and question witnesses who might
6 testify against you for the Government. You have a right to
7 object to the Government's evidence. You also have a right to
8 call witnesses and present evidence in your own case if you
9 decide to do that, and you have a right to remain silent.
10 Under the constitution and laws of this country, you're
11 presumed to be innocent. The Government bears the burden of
12 proving your guilt beyond a reasonable doubt. In other words,
13 in this country, it's not that you have to prove you're
14 innocent of a charge. It's that the Government's required to
15 prove you're guilty of an offense by the standard we call
16 beyond a reasonable doubt.

17 Do all four of you understand everything that I've said so
18 far, yes or no?

19 DEFENDANT GARCIA: Yes, Your Honor.

20 DEFENDANT VALDES: Yes, Your Honor.

21 THE COURT: Yes from everybody.

22 Now, a moment ago, I mentioned that you have a right to
23 remain silent. In part it means that if there was going to be
24 a trial in your case, and you decided not to testify in your
25 own behalf at your own trial, under the law, that fact would

1 not be held against you.

2 Do you understand, yes or no?

3 DEFENDANT GARCIA: Yes.

4 DEFENDANT VALDES: Yes.

5 THE COURT: Yes? Yes from everybody.

6 Now, if you plead guilty, you're going to be giving up all
7 the rights I just summarized for you except your right to be
8 represented by your lawyer. If the district judge accepts your
9 guilty plea, the district judge is going to find you guilty of
10 the offense, or offenses, to which you're pleading guilty based
11 on your own admission of guilt. There will not be a trial in
12 any of your cases because there isn't going to be a need for a
13 trial in any of your cases. By pleading guilty, you're saying,
14 under the law, by the facts, I am guilty of this offense or
15 these offenses. So if the district judge accepts your guilty
16 plea, he's going to find you guilty of the offense, or
17 offenses, based on your own admission of guilt, and will
18 sentence you on that basis without a trial.

19 Do all four of you understand what I've said, yes --

20 DEFENDANT VALDES: Yes, Your Honor.

21 THE COURT: -- or no?

22 Yes? Yes from everybody. Okay.

23 Now, having just explained some of your rights to you and
24 the affect your proposed plea of guilty will have on those
25 rights, do you still want to plead guilty?

1 DEFENDANT GARCIA: Yes, Your Honor.

2 DEFENDANT VALDES: Yes, Your Honor.

3 THE COURT: Yes? Yes from everybody.

4 Are you pleading guilty in your cases because you are
5 guilty and for no other reason, yes or no?

6 DEFENDANT GARCIA: Yes, Your Honor.

7 DEFENDANT VALDES: Yes, Your Honor.

8 THE COURT: Yes from everybody. Okay.

9 Now, if you are called upon by the Court to answer
10 questions about the offense, or offenses, and you answer those
11 questions on the record, under oath, and in the presence of
12 your lawyers, your answers may later be used against you in a
13 prosecution for perjury or for making a false statement if your
14 answers are untrue.

15 Do you understand what I have said?

16 DEFENDANT GARCIA: Yes, Your Honor.

17 THE COURT: Yes? Yes? Yes from everybody. Okay.

18 Now, at this time, we'll review the maximum possible
19 punishment that you face on your guilty pleas. And all four of
20 you have written plea agreements, and so all four of your
21 written plea agreements are going to set out this maximum
22 possible punishment information. So that's what we're going to
23 be reviewing right now, the parts of your written agreement
24 that set out your maximum possible punishment.

25 Now, Mr. Gonzalez, I know that your plea agreement is what

1 we call an 11(c)(1)(C), what we lawyers will call that. In other
2 words, it includes a sentencing agreement. I'm going to
3 discuss the sentencing agreement with you later. Right now,
4 I'm talking with you about the maximum possible punishment you
5 face under the statute, sir.

6 Do you understand what I'm telling you?

7 DEFENDANT GONZALEZ THROUGH INTERPRETER: Yes.

8 THE COURT: Good. Then on Count 1 of the indictment
9 your maximum possible punishment is not less than ten years
10 imprisonment up to life imprisonment followed by a mandatory
11 minimum ten-year term of supervised release.

12 Is that a mandatory minimum ten-year term of supervised
13 release?

14 MR. LEACHMAN: It's a five-year term of supervised
15 release.

16 THE COURT: It's a mandatory minimum five-year term
17 of supervised release. And then there's a fine up to
18 \$10 million, and there is a \$100 mandatory special assessment.

19 Do you understand what I've said so far, sir?

20 DEFENDANT GONZALEZ THROUGH INTERPRETER: Yes.

21 THE COURT: Then, starting on Page 8, at the very
22 bottom of Page 8, there's what -- a forfeiture agreement in
23 your plea agreement where you're agreeing to give up your
24 property rights, your -- any property interests that you might
25 have in certain identified items. For purposes of today, I

1 would want you to consider that as part of your maximum
2 possible punishment, sir.

3 Do you understand?

4 DEFENDANT GARCIA: (No audible response.)

5 THE COURT: Yes? Good.

6 Any questions about the maximum possible punishment that
7 you face under the statute, sir?

8 DEFENDANT GARCIA: (No audible response.)

9 THE COURT: No? Okay.

10 Then, Ms. Valdes, on your misprison of a felony offense,
11 you face a term of imprisonment up to three years followed by a
12 supervised release term of up to one year. You could be fined
13 up to \$250,000, and you will be required to pay a \$100
14 mandatory special assessment. Do you understand?

15 DEFENDANT VALDES: Yes, ma'am.

16 THE COURT: Any questions?

17 DEFENDANT VALDES: No, ma'am.

18 THE COURT: All right.

19 Then, Mr. Fuentes, and, Mr. Garcia, you have both pleaded
20 guilty to a felon in possession of a firearm charge.

21 Now, in your particular case, Mr. Garcia, you've also
22 pleaded guilty to another charge. I'll get to that in a
23 minute.

24 But for you, Mr. Garcia, and you, Mr. Fuentes, on that
25 felon in possession of a firearm charge, it's the same maximum

1 possible punishment for the two of you. It's a term of
2 imprisonment up to ten years followed by a supervised release
3 term up to three years. You could be fined up to \$250,000, and
4 you will be required to pay a \$100 mandatory special
5 assessment.

6 Do you understand?

7 DEFENDANT GARCIA: Yes, Your Honor.

8 DEFENDANT FUENTES: Yes, Your Honor.

9 THE COURT: Yes from both. Good.

10 Now, in both of your cases, your written plea agreements
11 on Page 6, as it happens in both of your cases, there's a
12 forfeiture agreement, and you each are agreeing to give up any
13 property right that you might have in firearms and ammunition
14 and other items that might be listed in your plea agreement. I
15 would want you to consider that as part of your maximum
16 possible punishment.

17 Do you understand?

18 DEFENDANT GARCIA: Yes, Your Honor.

19 DEFENDANT FUENTES: Yes.

20 THE COURT: Yes. Yes from both. Good.

21 Then, Mr. Fuentes, any questions about your maximum
22 possible punishment under the statute?

23 DEFENDANT FUENTES: No, Your Honor.

24 THE COURT: Okay.

25 Then for you, Mr. Garcia, with respect to that 924(c)

1 charge in Count 2, you face an additional punishment of not
2 less than five years imprisonment up to life, and that term of
3 imprisonment must run consecutively to any other term of
4 imprisonment you receive, including the one on Count 1.

5 You understand, sir?

6 DEFENDANT GARCIA: Yes, Your Honor.

7 THE COURT: Okay. It would be followed by a term of
8 supervised release of up to three years, a fine -- a second
9 fine up to \$250,000, and a second \$100 mandatory special
10 assessment.

11 Do you understand?

12 DEFENDANT GARCIA: Yes, Your Honor.

13 THE COURT: Now, we've already talked about the fact
14 that your term of imprisonment has to run consecutively to the
15 term of imprisonment on Count 1. So you face up to ten years
16 on Count 1, followed by at least five years up to life on
17 Count 2. So you're looking at, potentially, 15 years to life.

18 Do you understand how we're adding those things together?
19 This is for -- just for purposes of your maximum possible
20 punishment. Do you understand, sir?

21 DEFENDANT GARCIA: Yes, Your Honor.

22 THE COURT: So you'd also apply that same principle
23 to the other segments to your punishment, fine up to \$250,000
24 on Count 1, fine up to \$250,000 on Count 2, total fine exposure
25 half a million dollars, sir.

1 Do you understand?

2 DEFENDANT GARCIA: Yes, Your Honor.

3 THE COURT: \$200 total in two mandatory special
4 assessments. And then, under the statute, two supervised
5 release terms, up to three years on both counts, so it could be
6 up to six years under the statute if they were imposed
7 consecutively.

8 Do you understand?

9 DEFENDANT GARCIA: Yes, Your Honor.

10 THE COURT: Any questions about any of that, sir?

11 DEFENDANT GARCIA: No, Your Honor.

12 THE COURT: Now, to all four of you, when you're
13 sentenced by the district judge, the district judge is going to
14 sentence you referring to the Sentencing Guidelines. Under the
15 guidelines, ranges of punishment will be computed considering
16 such things as your prior criminal history, the facts and
17 circumstances of your cases, and other factors that are set out
18 in the guidelines as being factors the court should consider in
19 computing a guideline range.

20 If the judge applies the guidelines, and he doesn't have
21 to, he would sentence you within this range that's computed
22 when the guidelines are applied to your cases unless
23 circumstances exist which justify a sentence above or below
24 that range. Sometimes that's called making a departure above
25 the range or below the range.

1 Do you all understand what I've said so far?

2 DEFENDANT VALDES: Yes, ma'am.

3 DEFENDANT FUENTES: Yes, ma'am.

4 THE COURT: Yes? Yes from everybody. Okay.

5 For the -- for today, the most important point about the
6 guidelines is this, I can tell you that the judge will refer to
7 the Sentencing Guidelines when you are sentenced, but I have
8 not told you he will follow them. I do not know. Under the
9 law, the judge does not have to follow the guidelines. So you
10 may have received some estimates from your lawyers about how
11 the guidelines might be applied to your cases.

12 Even you, Mr. Gonzalez, because that's important
13 information, but I wouldn't want you to rely on estimates about
14 how the guidelines might or could be applied to your cases when
15 you plead guilty because nobody even knows if the judge will
16 follow the guidelines or not. Instead, when you plead guilty,
17 it's much wiser to look at the maximum possible punishment that
18 you face under the statute, that information I've just been
19 reviewing with you these last few minutes, because that is your
20 worst case scenario on your guilty plea.

21 Do all four of you understand what I'm saying?

22 DEFENDANT VALDES: Yes, Your Honor.

23 UNIDENTIFIED MALE DEFENDANT: Yes, Your Honor.

24 THE COURT: Yes? Yes from everybody. Okay.

25 Now, the information that I have available to me indicates

1 that all four of you are United States Citizens. Is that
2 correct, are you all citizens of this country?

3 DEFENDANT GARCIA: Correct.

4 THE COURT: Yes? Yes? Yes from everybody. Good.

5 I want you to know the only reason I ask is that, if you
6 were not a United States Citizen, the law requires me to review
7 certain things with you right now. So the clearest way for
8 this record to show why I'm not covering the things is because
9 you've all told me you're United States Citizens.

10 Do you understand what I've said?

11 DEFENDANT GARCIA: Yes, Your Honor.

12 DEFENDANT VALDES: Yes, Your Honor.

13 THE COURT: Yes? Yes from everybody. Good.

14 Then, Mr. Gonzalez, for you, under the statute, and
15 Mr. Garcia, for you, under the statute, with respect to
16 Count 2, there are mandatory minimum terms of imprisonment that
17 apply under the statute, but other additional or greater
18 mandatory minimum punishments can come into existence under the
19 Sentencing Guidelines. Now, we still don't know if the judge
20 will follow the guidelines or not, but you would want to be
21 aware of this fact at this time.

22 Do the two of you understand?

23 DEFENDANT GARCIA: Yes, Your Honor.

24 THE COURT: Yes? Yes from both. Good.

25 Then, Ms. Valdes, Ms. Fuentes -- Mr. Fuentes, and,

1 Mr. Garcia, for you on Count 1, for the three of you, there are
2 no mandatory minimum terms of imprisonment that apply to you
3 under the statute, but mandatory minimum punishments can
4 actually come into existence under the guidelines. Again, we
5 still don't know if the judge will follow the guidelines or not
6 when you are sentenced. You just would want to be aware of
7 this fact at this time.

8 Do the three of you understand, yes or no?

9 DEFENDANT GARCIA: Yes, Your Honor.

10 DEFENDANT VALDES: Yes, Your Honor.

11 DEFENDANT FUENTES: Yes.

12 THE COURT: Yes? Yes from those three. Good.

13 To all of you, I would say there is no longer the
14 possibility of parole in federal court. If you are sentenced
15 to serve a term of imprisonment, the term of imprisonment you
16 receive is the time you will serve less credit for good time.

17 Do you understand, yes or no?

18 DEFENDANT GARCIA: Yes, Your Honor.

19 DEFENDANT VALDES: Yes, Your Honor?

20 THE COURT: Yes? Yes from everybody. Good.

21 Now, each of you face possible supervised release terms in
22 connection with your guilty pleas. Supervised release is
23 something that follows an initial term of imprisonment. So, if
24 you are required to serve a supervised release term by the
25 district judge when you're sentenced, you will be required to

1 follow various conditions. If you do not follow those
2 conditions, your supervised release can be revoked, and you can
3 be ordered to serve an additional term in prison without credit
4 for time you -- you spent in prison serving that initial term
5 of imprisonment and without credit for time you served on
6 supervised release.

7 Do the four of you understand, yes or no?

8 DEFENDANT GARCIA: Yes, Your Honor.

9 DEFENDANT FUENTES: Yes, Your Honor.

10 THE COURT: Yes? Yes from everybody. Okay.

11 Does anybody have any questions about anything so far?

12 DEFENDANT GARCIA: No, Your Honor.

13 THE COURT: No. No from all. Okay. Just a few more
14 questions then.

15 Are you pleading guilty freely and voluntarily and with
16 full knowledge of the consequences?

17 DEFENDANT GARCIA: Yes, Your Honor.

18 DEFENDANT VALDES: Yes, Your Honor.

19 THE COURT: Yes from all.

20 Has anyone threatened you, coerced you, or forced you in
21 any way to plead guilty?

22 DEFENDANT GARCIA: No, Your Honor.

23 DEFENDANT VALDES: No.

24 THE COURT: No from all.

25 Has anyone made any promise to you that you are relying on

1 in pleading guilty --

2 And I'm going to exclude you, Mr. Gonzalez, from this
3 question.

4 So, Ms. Valdes, Mr. Fuentes, Mr. Garcia, has anyone made
5 any promise to you that you're relying on that has caused you
6 to plead guilty?

7 DEFENDANT GARCIA: No, Your Honor.

8 DEFENDANT VALDES: No.

9 THE COURT: No from those three.

10 Again, just to those three, has anyone promised you what
11 your sentence will be?

12 DEFENDANT GARCIA: No, Your Honor.

13 DEFENDANT VALDES: No.

14 THE COURT: No for those three. Okay.

15 Now, Mr. Gonzalez, this is where we're going to take up
16 your sentencing agreement, sir. Now, I'm aware of your written
17 plea agreement. I've looked at it. And, in your written plea
18 agreement, there is a -- a sentencing agreement that's included
19 in it. And it says that the parties agree that the appropriate
20 disposition of your case would include a sentence to a term of
21 imprisonment of 54 months to be followed by five years on
22 supervised release, you agree to pay the \$100 special
23 assessment, and you agree to pay the fine in whatever amount
24 the district judge might require you to pay. And you
25 understand that your maximum possible fine is \$10 million, and

1 you're going to let the judge decide what the appropriate fine
2 is. And then you're also agreeing to forfeit certain rights --
3 or, you know, property rights that you have, interests in items
4 that you have covered by the forfeiture agreement.

5 And so the parties are in agreement that that's an
6 appropriate sentence. Do you understand that, sir?

7 DEFENDANT GONZALEZ: (No audible response.)

8 THE COURT: Yes? Okay.

9 Now, your plea agreement has been written in a way that
10 this agreement, the parties' agreement as to the appropriate
11 sentence, will be presented to the district judge. And the
12 district judge then will decide whether or not the district
13 judge agrees that that's an appropriate sentence or not. If
14 for some reason the district judge cannot accept that agreement
15 as an appropriate disposition of your case, then what will
16 happen, under the typical procedures, is that the district
17 judge will notify you, through your lawyer, and will notify the
18 Government, through the Government's lawyer, and you then would
19 be given the opportunity to withdraw from this plea agreement
20 and guilty plea.

21 Do you understand that?

22 DEFENDANT GONZALEZ THROUGH INTERPRETER: Yes.

23 THE COURT: Okay. Other than this sentencing
24 agreement that I've been reviewing with you, has anyone
25 promised you anything else to get you to plead guilty?

1 DEFENDANT GONZALEZ: (No audible response.)

2 THE COURT: No.

3 Other than the sentencing agreement that I've reviewed
4 with you, have there been any other promises that have been
5 made to you about this type of sentence or any feature of the
6 sentence that you will receive?

7 DEFENDANT GONZALEZ: (No audible response.)

8 THE COURT: No.

9 Do you have any questions about anything, sir?

10 DEFENDANT GONZALEZ: (No audible response.)

11 THE COURT: No. Okay.

12 Then all four of you have sections in your plea agreements
13 which address your waiver of appellate rights. Do each -- and
14 you have --

15 (Coughing into microphone.)

16 THE COURT: -- (*unintelligible*) of your written plea
17 agreements in which you are waiving, or giving up, your right
18 to appeal your conviction and sentence in this case or to
19 challenge it in a post-conviction proceeding unless you've kept
20 those rights in certain limited circumstances set out in your
21 written plea agreement.

22 Do all four of you understand these portions of your
23 written plea agreements?

24 DEFENDANT VALDES: Yes, Your Honor.

25 DEFENDANT GARCIA: Yes, Your Honor.

1 THE COURT: Yes? Yes from all four. Good.

2 Then I'll just ask you, simply this, do you agree to give
3 up your rights to appeal and to file post-conviction challenges
4 as provided in your written plea agreements, yes or no?

5 DEFENDANT GARCIA: Yes, Your Honor.

6 DEFENDANT VALDES: Yes, Your Honor.

7 THE COURT: Yes? Yes from all. All right.

8 Now, also in your written plea agreement, there are
9 factual summaries that are set out in each of your written plea
10 agreements. Namely, there are summaries of facts that the
11 Government is prepared to prove to show that you are guilty of
12 the offense or offenses to which you're pleading guilty.

13 Do you understand what I've said, yes or no?

14 DEFENDANT GARCIA: Yes.

15 THE COURT: Yes? Yes? Yes from everybody. Good.

16 When you either read your plea agreement, or had it read
17 to you word for word, did you understand all of the facts
18 summarized in it, yes or no?

19 DEFENDANT GARCIA: Yes, Your Honor.

20 DEFENDANT VALDES: Yes, Your Honor.

21 THE COURT: Yes? Yes from everybody. Good.

22 Do any of the four of you object to any of the those
23 facts?

24 DEFENDANT GARCIA: No, Your Honor.

25 THE COURT: No? No? No from all. Okay.

1 Then does the factual information that is summarized in
2 your plea agreement correctly state what you did and what
3 you're pleading guilty to in your cases, yes or no?

4 DEFENDANT VALDES: Yes, Your Honor.

5 DEFENDANT GARCIA: Yes, Your Honor.

6 THE COURT: Yes? Yes? Yes? Yes. Yes from
7 everybody. Okay.

8 Then is there anything else the Government wants reviewed
9 in any of these cases?

10 MS. WANNARKA: Not -- no, Your Honor.

11 MR. LEACHMAN: No, Your Honor.

12 THE COURT: No. No. No. Okay.

13 I saw you conferring there. I just wasn't sure if it
14 was -- if it was about something --

15 Is there anything else that any defense lawyer would like
16 me to cover with your specific client at this time? Just to
17 make sure I've asked both sides.

18 Yes, sir?

19 MR. ARISTOTELIDIS: Just in an overabundance of
20 caution, Judge, I spoke with Mr. Ponder --

21 THE COURT: Yes.

22 MR. ARISTOTELIDIS: -- about the plea agreement.
23 There's -- there's language that the parties agreed that my
24 client be sentenced at the bottom of the applicable guidelines.
25 This -- this is a misprison act (*unintelligible*). The

1 guideline might well be over the maximum which is three years.

2 If (*unintelligible*) Mr. Ponder is in agreement, this is
3 not keeping me from asking for a sentence under the guidelines
4 (*unintelligible*), so I'm not bargained out of that.

5 Irrespective of the of Government's position, I still retain
6 that, Your Honor.

7 MR. PONDER: Well, I think what he's referring to is
8 the Government's agreement to recommend a sentence at the
9 bottom of the guidelines. It doesn't bind him in any way --

10 THE COURT: Yes.

11 MR. PONDER: It just binds the Government --

12 MR. ARISTOTELIDIS: Right.

13 THE COURT: All right.

14 MR. ARISTOTELIDIS: Just I think my --

15 THE COURT: You're just wanting to clear the air
16 because --

17 MR. ARISTOTELIDIS: (*Unintelligible.*)

18 THE COURT: -- you don't want Mr. Ponder to be
19 disappointed at your sentencing hearing --

20 MR. ARISTOTELIDIS: Yes, Your Honor.

21 THE COURT: -- when you argue for a lesser sentence?

22 MR. ARISTOTELIDIS: (*Unintelligible.*)

23 THE COURT: Okay.

24 MR. ARISTOTELIDIS: (*Unintelligible.*) I forget.

25 THE COURT: Yeah, so he's forewarned --

1 MR. ARISTOTELIDIS: (*Unintelligible.*)

2 THE COURT: -- I guess is what it is.

3 So you understand, Ms. Valdes?

4 DEFENDANT VALDES: Yes, ma'am.

5 THE COURT: All right. Any questions about this?

6 DEFENDANT VALDES: No, ma'am.

7 THE COURT: Okay. Is -- Mr. Ponder is there anything
8 else you want reviewed in that regard, sir?

9 MR. PONDER: No, Your Honor.

10 THE COURT: Thank you, sir.

11 MR. PONDER: Thank you.

12 THE COURT: Okay. Then, for all four defendants, the
13 Court finds each defendant is competent to stand trial; each
14 defendant fully understands the nature of the charge or charges
15 and the maximum possible punishment; each defendant understands
16 his or her constitutional and statutory rights and desires to
17 waive them; each defendant's plea is freely, knowingly, and
18 voluntarily made, and that there is a factual basis in support
19 of each plea.

20 So now all of these cases are going to be set for
21 sentencing before the district court, and I have some
22 sentencing dates at this time.

23 Mr. Villarreal, and, Mr. Garcia, right now you're set on
24 December 29 of this year at 9 o'clock in the morning before
25 Judge Ezra, in Judge Ezra's courtroom, on the third floor of

1 this building.

2 Mr. Fuentes, and, Ms. Valdes, right now, you are both set
3 on January 14 of -- of next year, 2015, at 1:30 in the
4 afternoon in Judge Rodriguez' courtroom on the first floor of
5 this building.

6 And, Mr. Gonzalez, for you, sir, right now you're set on
7 January 8, 2015, at 9:30 in the morning before
8 Judge Orlando Garcia on the first floor of this building.

9 Now, for all four of you between now and when you're
10 sentenced, your cases are automatically referred to the
11 probation office, and the probation office is going to prepare
12 some information. It will be given to the district judge for
13 the district judge to use when you are sentenced. All four of
14 you will be given an opportunity to be interviewed by a
15 probation officer before a document is prepared. The document
16 is likely to be a document called a presentence investigation
17 report for all four of you. It's going to include information
18 about you and your criminal history, facts and circumstances of
19 the offense, and, significantly, it will make certain
20 recommendations to the district judge about how the guidelines
21 might be applied to your cases in the event the judge were to
22 decide to follow the guidelines.

23 Each of you will be given an opportunity to be interviewed
24 before the draft report is prepared. And then, when the draft
25 is ready, under the standard rules of the probation office,

1 automatically notifies your lawyer and the attorney for the
2 Government. And both sides have an opportunity to object to
3 anything that's in that report before the district judge uses
4 it when you are sentenced.

5 So for you, Mr. Gonzalez, even though you have a
6 sentencing agreement, this report is going to be important for
7 you, sir, because the district judge might look at how the
8 guidelines might be applied to your case in order to decide
9 whether or not this agreement is one that he can accept.

10 Do you understand what I'm telling you?

11 DEFENDANT GONZALEZ: (No audible response.)

12 THE COURT: Yes. Okay.

13 So for all four of you it's going to be an important
14 document. Your lawyer will be able to bring it to you or
15 review it with you. You will be able to tell your lawyer if
16 you object to anything in the document before the district
17 judge uses it when you are sentenced.

18 For the probation officer, I mentioned that I have Rule 32
19 waivers for all three of the defendants except for Mr. Garcia.
20 Yes.

21 Ms. Orr, is there anything else you would like reviewed
22 for Mr. Gonzalez?

23 MS. ORR: Nothing further, Your Honor.

24 THE COURT: Mr. Leachman, sir, anything else in that
25 case?

1 MR. LEACHMAN: No, Your Honor.

2 THE COURT: Okay. Counsel, anything further for
3 Ms. Valdes?

4 MR. ARISTOTELIDIS: Nothing, Your Honor.

5 THE COURT: Mr. Ponder?

6 MR. PONDER: No, Your Honor.

7 THE COURT: Okay. Anything further for Mr. Fuentes,
8 Counsel?

9 MR. MAY: No, Your Honor.

10 THE COURT: Anything further for Mr. Garcia, Counsel?

11 MR. VILLARREAL: No, Your Honor. Thank you.

12 THE COURT: No.

13 Then, Mr. Leachman, anything further for the Government?

14 MR. LEACHMAN: I am -- Your Honor, and Ms. Wannarka
15 had a question from a jury that's out, and that's why she
16 stepped out real quick. But no further --

17 THE COURT: Nothing further for the Government?

18 MR. LEACHMAN: No.

19 THE COURT: Okay. Well, that's interesting to know
20 why she was summoned away. We understand that. We have all --
21 we have all gotten hives now just knowing why she was called
22 away. So okay. Nothing -- being nothing further, we're in
23 recess. Thank you.

24 (Whereupon said re-arraignment & plea hearing
25 proceedings concluded.)

C E R T I F I C A T E

I, Kristin M. Anderson, a Registered Professional Reporter, and Official Court Reporter for the U.S. District Court, Western District of Texas do hereby certify:

That I, as a court-approved transcriber, certify that the foregoing is a correct transcription of the audio recording to the best of my ability from the official digital audio recording of the proceedings in the above-entitled matter;

That I am not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of such attorney or counsel, or financially interested in the action.

WITNESS my hand on this 20th of August, 2015.

/s/ Kristin M. Anderson
Kristin M. Anderson, RPR
Federal Official Court Reporter